IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.69956-M of 2006

DATE OF DECISION: NOVEMBER 9, 2006

Sugreev

...PETITIONER

VERSUS

Smt.Ram Beti

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.Vikram Bajaj, Advocate,
for the petitioner.

...

The petitioner (husband) has filed this petition under Section 482 Cr.P.C. for quashing the order dated 18.9.2006 passed by the Additional Sessions Judge, Ferozepur, whereby the revision filed by him for setting aside the order dated 9.2.2006 passed by the Chief Judicial Magistrate, Ferozepur, awarding maintenance allowance at the rate of Rs.2000/- per month to the respondent-wife under Section 125 Cr.P.C., has been dismissed.

I have heard the counsel for the petitioner and gone through the impugned orders, passed by the Courts below and do not find any ground to interfere with these orders in exercise of the inherent powers of this Court.

In this case, the respondent claimed maintenance from the petitioner under Section 125 Cr.P.C. claiming herself to be the legally wedded wife of the petitioner. It was alleged that their marriage was performed about 27 years ago. A child, namely, Raju was also born from the said wedlock, who is now major. It was further alleged that she was not able

to maintain herself, therefore, she claimed interim maintenance from the petitioner. The allegations of beating and harassment were also levelled.

The petitioner contested the aforesaid application on the ground that the respondent is not his legally wedded wife, therefore, she is not entitled for interim maintenance under Section 125 Cr.P.C. It was pleaded that the respondent is legally wedded wife of his brother Bangali, who died in the year 1976-77 and Raju is the son of his brother Bangali. It was further alleged that by having pity on Raju, the petitioner brought him at Ferozepur where he looked after him as his own son.

In order to prove her case, the respondent examined AW1-Om Watti and AW2-Ginna, real sisters of the petitioner. Both these witnesses have categorically stated that the marriage of the petitioner was performed with the respondent. The respondent herself appeared as AW4 and stated that her marriage was performed with the petitioner. She also placed on record Ex.A, Panchayati Compromise, which also shows that the respondent was the wife of the petitioner. On the other hand, the petitioner, on the basis of his statement and the statement of his wife Meera (RW2), one Vikas Sharma (RW3), the identity card (Ex.DB) issued by the Election Commission of India and the Ration Card (Ex.DA), submitted that the respondent is not his legally wedded wife.

Both the Courts below after taking into consideration the evidence led by the respondent, particularly, the statements of the real sisters of the petitioner, came to the conclusion that the respondent was the legally wedded wife of the petitioner and awarded Rs.2000/- per month as interim maintenance to the respondent-wife from the date of filing of the application i.e. 7.9.2002.

Counsel for the petitioner, while relying upon a judgment of the Supreme Court in Savitaben Somabhai Bhatiya v. State of Gujarat and Ors., 2005(2) RCR (Crl.) 190 and a judgment of the Calcutta High Court in Chandra Monhan Majhi v. Kaushalya Majhi, 1997(3) RCR (Crl.) 460, submitted that only legally wedded wife is entitled for interim maintenance under Section 125 Cr.P.C. and the respondent has failed to prove the valid marriage.

I do not find any substance in this argument of the learned counsel for the petitioner. The Chief Judicial Magistrate, Ferozepur as well as the revisional Court after taking into consideration the evidence led by the parties, particularly the statements made by the real sisters of the petitioner, came to the positive conclusion that the respondent was legally wedded wife of the petitioner and, thus, was awarded interim maintenance. I do not find any ground to interfere in the said findings of fact in this revision in exercise of the inherent powers of this Court under Section 482 Cr.P.C., particularly when the revisional Court after considering all the similar arguments raised by the petitioner, has dismissed the revision.

Hence, this petition is dismissed.

November 9, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE